

FISHER & PHILLIPS LLP
3200 N. Central Avenue, Suite 1550
Phoenix, Arizona 85012-2487
(602) 281-3400

Lori A. Guner, SBN 031646
FISHER & PHILLIPS LLP
3200 N. Central Avenue, Suite 1550
Phoenix, Arizona 85012-2487
Telephone: (602) 281-3400
Fax: (602) 281-3401
lguner@fisherphillips.com
Attorneys for Defendants
VH Harvesting LLC and Preston Van Hofwegen

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Martin J. Walsh, Secretary of Labor, United
States Department of Labor,

Plaintiff,

v.

VH Harvesting, an Arizona LLC; T&K
Feeds, Inc., an Arizona corporation; Preston
Van Hofwegen, an individual,
Defendants.

No. 2:22-cv-01805-DJH

**DEFENDANTS VH HARVESTING,
AN ARIZONA LLC, AND PRESTON
VAN HOFWEGEN'S ANSWER AND
AFFIRMATIVE DEFENSES**

Defendants VH HARVESTING, an Arizona limited liability company, and
PRESTON VAN HOFWEGEN, by their attorneys, for their answer and affirmative
defenses to the Complaint (Doc. 1) seeking an injunction, state as follows:

1. In response to Paragraph 1 of the Complaint, Defendants admit Martin J.
Walsh is the Secretary of Labor.

2. In response to Paragraph 2 of the Complaint, Defendants admit the
allegations contained therein.

3. In response to Paragraph 3 of the Complaint, Defendants admit the
allegations contained therein.

4. In response to Paragraph 4 of the Complaint, Defendants are not related to
Defendant T&K Feeds, Inc., and are therefore without sufficient information or

FISHER & PHILLIPS LLP
 3200 N. Central Avenue, Suite 1550
 Phoenix, Arizona 85012-2487
 (602) 281-3400

knowledge to form a belief as to the truth of the allegations contained in said paragraph and on that basis deny each and every allegation set forth in that paragraph.

5. In response to Paragraph 5 of the Complaint, Defendants admit this Court has jurisdiction over this matter.

6. In response to Paragraph 6 of the Complaint, Defendants admit venue is proper.

7. In response to Paragraph 7 of the Complaint, Defendant VH Harvesting admits it petitioned for H-2A guestworkers but denies the remainder of the allegations contained therein.

8. In response to Paragraph 8 of the Complaint, Defendants deny the allegations contained therein.

9. In response to Paragraph 9 of the Complaint, Defendants deny the allegations contained therein.

10. In response to Paragraph 10 of the Complaint, Defendants deny the allegations contained therein.

11. In response to Paragraph 11 of the Complaint, Defendants deny the allegations contained therein.

12. In response to Paragraph 12 of the Complaint, Defendants deny the allegations contained therein.

13. In response to Paragraph 13 of the Complaint, Defendants deny the allegations contained therein.

14. In response to Paragraph 14 of the Complaint, Defendants deny the allegations contained therein.

AFFIRMATIVE DEFENSES

By way of affirmative defenses to the allegations of the Complaint herein, Defendant alleges as follows:

FIRST AFFIRMATIVE DEFENSE

1. As a first, separate and distinct affirmative defense to the Complaint, and

each cause of action therein, Defendants allege that Plaintiff has not suffered any losses, and Defendants have not been unjustly enriched as a result of any action or inaction, if any, by Defendants or its agents.

SECOND AFFIRMATIVE DEFENSE

2. As a second, separate and distinct affirmative defense to the Complaint, and each cause of action therein, Defendants allege that an unexpected event or occurrence happened which frustrated the purpose of the H-2A contract at issue.

THIRD AFFIRMATIVE DEFENSE

3. As a third, separate, and distinct affirmative defense to the Complaint, and each cause of action therein, Defendants allege that Plaintiff is seeking to recover more than they are entitled to in this matter, and the award of judgement would unjustly enrich Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

4. As a fourth, separate, and distinct affirmative defense to the Complaint, and each cause of action therein, Defendants allege that the relief sought in the Complaint has already been satisfied.

FIFTH AFFIRMATIVE DEFENSE

5. As a fifth, separate, and distinct affirmative defense to the Complaint, and each cause of action therein, Defendants assert they substantially complied with the Contract.

SIXTH AFFIRMATIVE DEFENSE

6. As a sixth, separate, and distinct affirmative defense to the Complaint, and each cause of action therein, Defendants allege that Plaintiff failed to mitigate damages.

Wherefore, these answering Defendants pray as follows:

1. That Plaintiff take nothing by way of his Complaint for damages;
2. That Plaintiff's Complaint herein be dismissed in its entirety with prejudice;

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Marc A. Pilotin
Boris Orlov
Charles Song
Victoria Yee
UNITED STATES DEPARTMENT OF LABOR
350 S. Figueroa Street, Suite 370
Los Angeles, CA 90071-1202
Song.charles.c@dol.gov
Attorneys for Plaintiff Martin J. Walsh,
Secretary of Labor

Julie A. Pace
David A. Selden
Heidi Nunn-Gilman
MESSNER REEVES, LLP
7250 North 16th Street, Suite 410
Phoenix, AZ 85020
jpace@messner.com
dselden@messner.com
hgilman@messner.com
Attorneys for Defendant T&K Feeds, Inc.

/s/ Kathy Meyer

FISHER & PHILLIPS LLP
3200 N. Central Avenue, Suite 1550
Phoenix, Arizona 85012-2487
(602) 281-3400